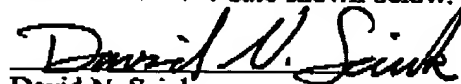


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David N. Sciuk

Date: July 18, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3627
Primary Examiner: Mr. Florian M.(Ryan) Zeender

In Re PATENT APPLICATION OF

Applicant : DAVID N. SCIUK

Appln. No. : 09/973,251

Conf. No. : 6179

Filed : October 8, 2001

**For : AUTOMATED SYSTEM AND METHOD
FOR MANAGING A PROCESS FOR
THE SHOPPING AND SELECTION OF
HUMAN ENTITIES**

Atty. Dkt. : SCIUK-0001

**DECLARATION
UNDER
37 C.F.R. § 1.131**

July 18, 2005

MAIL STOP NON-FEE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Declaration Under 37 C.F.R. § 1.131 accompanies a Response After Final Rejection which is being filed concurrently.

I, David N. Sciuk, am the inventor of the above-identified Application and submit that Franco, US-2004/0044585 A1, is not a proper reference against the above-identified Application and should be removed for the reasons which follow.

1. The present Application was filed October 8, 2001 and claims the benefit of priority of three Provisional Applications, namely, 60/268,987 filed February 14, 2001, 60/253,032 filed November 22, 2000, and 60/238,997 filed October 10, 2000.

2. The Examiner has applied Franco, US-2004/0044585 A1, as a secondary reference against the claims active in the present Application. Franco lists the following Related Applications information:

"This application claims the benefit of U.S. Provisional Application No. 60/408,219, filed on September 3, 2002, and this application is a continuation-in-part of U.S. Application No. 09/817,535, filed on March 26, 2001, which claims the benefit of U.S. Provisional Application No. 60/225,393, filed on August 15, 2000, all of which applications are hereby incorporated by reference."

3. Applicant notes that Franco, US-2004/0044585 A1, and Franco, U.S. Provisional Application No. 60/408,219, were both filed after Applicant's complete application date of October 8, 2001. The Examiner relies on Franco, US-2004/0044585 A1, for a:

"...teaching that it is well known in the art to have a system (See for example Fig. 2) utilizing a knowledge base 212 that is substantially separate from user information 220 and substantially separate from program code 202 that references the knowledge base either directly or indirectly."

4. Applicant additionally notes that Franco, U.S. Provisional Application No. 60/408,219, is a continuation-in part of two earlier applications, which pre-date Applicant's complete application filing date of October 8, 2001, i.e., U.S. Application No. 09/817,535, filed on March 26, 2001, and U.S. Provisional Application No. 60/225,393, filed on August 15, 2000.

5. Applicant further notes that a study of U.S. Application No. 09/817,535, filed on March 26, 2001, and U.S. Provisional Application No. 60/225,393, filed on August 15, 2000, led Applicant to conclude that no knowledge base containing facts and rules for problem solving in accordance with Applicant's claims is disclosed in either of these documents. Only the continuation-in-part Applications, Franco, US-2004/0044585 A1, and Franco, U.S. Provisional Application No. 60/408,219, include disclosure of a knowledge base.

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6. U.S. Application No. 09/817,535 and U.S. Provisional Application No. 60/225,393 do not disclose *per se* a knowledge base or a knowledge base containing facts and rules for problem solving.

7. U.S. Application No. 09/817,535 and U.S. Provisional Application No. 60/225,393 do disclose various databases, e.g., database modules (DBM 230-243, see pages 33 and 34), but none of these databases is considered to amount to a knowledge base within Applicant's claims.

8. Further, with reference to U.S. Application No. 09/817,535 and U.S. Provisional Application No. 60/225,393, Figures 9A and 9B illustrate a flowchart of program code for a process performed by the Returns Processing Module (see page 13, line 11). Figure 9B, Box 911 mentions "return allocation rules" but these "rules" are considered to be simply additional facts applicable to the return process for particular merchants rather than Applicant's rules for the manipulation of facts to solve problems (knowledge base). However, no one of ordinary skill in this art would consider such databases and return information to amount to a knowledge base within Applicant's claims.

9. Finally, with reference to U.S. Application No. 09/817,535 and U.S. Provisional Application No. 60/225,393, page 5, line 22, through page 6, line 8, describe an Integrated Virtual Technical Support Center for scheduling appointments for technical support for consumers to eliminate long waiting periods on hold on the telephone. However, no one of ordinary skill in this art would consider such a scheduling system to amount to a knowledge base containing facts and rules for problem solving within Applicant's claims.

10. In view of these facts, Applicant respectfully submits that the disclosure of Franco, US-2004/0044585 A1, may not be considered a proper reference against the present Application and should be removed.

I declare, as provided by Title 28, United States Code, Section 1746 under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of July, 2005.



David N. Sciuk

(09/973,251)